

Court Improvement Project Committee

Minutes

November 7, 2014

IVN – Grand Forks & Bismarck, ND

Present

Judge Sonja Clapp, Chair
Judge Laurie Fontaine
Brad Hawk for Scott Davis
Shari Doe
Karen Kringlie
Dale Rivard
Geraldine Teevens
Donna Wunderlich

Absent

Judge Todd Cresap
Judge David Reich
Judge Jay Schmitz
Robin Huseby
Connie Portscheller

Guests

Winonah Monette, UND Department of Social Work
Shawn Peterson, Unit 1 Juvenile Director
Melanie Sage, UND Department of Social Work
Lanny Serrano, Guardian ad Litem Program Supervisor
Brad Swenson, Guardian ad Litem Program Director

Staff

Scott Johnson
Catie Palsgraaf, scribe

Approval of July 25, 2014 meeting minutes

Judge Sonja Clapp called the meeting to order. She asked if there were any comments or changes to the May 16, 2014 meeting minutes. After no comment, **a motion was made by Dale Rivard to approve the July 25, 2014 minutes as amended. The motion was seconded by Donna Wunderlich, motion carried.**

Recognize outgoing CIP Committee Chair; Introduce incoming Chair

Scott Johnson recognized Judge Sonya Clapp as outgoing Chair and provided highlights of the accomplishments of the CIP Committee during her tenure. Chief Justice VandeWalle, though unable to attend, provided a statement of thanks, which was read by Mr. Johnson. Judge Laurie Fontaine was introduced as the incoming Chair.

Review ICWA Audit Final Report

Catie Palsgraaf reviewed the status of the ICWA Audit final report, submitted by Melanie Sage and Winonah Monette of the UND Department of Social Work. This is the final draft of the report of the first stage of the ICWA Audit project undertaken by the UND Department of Social Work. The ICWA Sub-Committee is currently reviewing the report and provided preliminary comments and questions to Ms. Sage and Ms. Monette, which are reflected in the report disseminated to the CIP Committee for discussion. Ms. Palsgraaf asked the committee to provide their preliminary comments and questions.

Ms. Sage stated that this project is ground breaking work as there is no other statewide audit previously undertaken in the United States. A challenge for this audit was to establish benchmarks because there were no statewide audits with which to compare. The closest in scope was an audit of a small number of Arizona counties totaling approximately 65 cases. Other challenges included a lack of agreement nationally on what constitutes compliance, ND does not define active efforts in statute and whether to make recommendations based on one year of data.

Ms. Sage explained that the data was broken down in a number of ways based on jurisdiction and compliance issues. They decided to include recommendations in the report based on the first year of data, rather than wait until a full dataset is available based on multiple audit years. The recommendations are in areas the auditors felt were important to address. Mr. Johnson suggested the recommendations include a caveat that some of the corrections may have already been made and will show as the audit continues.

There was discussion concerning determining compliant notice, when qualified expert witnesses (QEWs) are required and measuring active efforts. Ms. Sage discussed the difficulty of measuring compliance from one set of records, which are court records in this audit project. Social services records will need to be reviewed for a fuller measure of compliance, but are not currently within the scope of this audit. Ms. Sage strongly believes that wide discussion of the issues will help move toward better compliance. They have reviewed very strong, compliant files that can be used as examples.

Ms. Palsgraaf stated that the ICWA Sub-Committee and CIP Committee need to continue to review the final draft and send comments and questions to her. Ms. Sage and Ms. Monette will then finalize the report and the CIP Committee will review for presentation to the Administrative Council.

Status of Lay GAL Program budget

Mr. Johnson thanked the committee and GAL Sub-Committee on all the work that went into the letter and supplemental information. The court system budget was passed through Administrative Council and the Lay GAL Program budget as discussed at the July 2014 CIP Committee meeting is the budget going forward to the legislature. The Lay GAL Program budget request is about a 12.5% increase overall with increases in both hours and travel. Administrative and operational costs were highlighted separately. Judge Clapp recognized Robin Huseby's efforts on this project as chair of the GAL Sub-Committee.

Update on QA Project

Mr. Johnson provided an update on the QA Project. Paul Ronningen was the contracted QA Specialist through April 2014. The QA Project has changed slightly by hiring a temporary, part-time QA Specialist, rather than an independent contractor. Interviews for the position are scheduled for November 13, 2014 and Karen Kringlie will be part of the interview team. The QA Specialist will be housed in the Supreme Court Law Library. Mr. Johnson anticipates that the new specialist will travel to each unit to meet with each juvenile director.

Update on Child and Family Services Reviews (CFSR) in the Southeast and Badlands Regions

Shari Doe explained the Child and Family Services Review (CFSR) process that took place in the Southeast (Fargo) and Badlands (Dickinson) regions in September and October. Mr. Johnson and Ms. Palsgraaf participated on the QA teams as court system representatives. Common concerns in both regions are lack of services and resources. Ms. Doe confirmed that the CFSR reports of the reviews can be distributed to committee members and the public.

Judge Clapp asked what is being done in the next legislative session to address lack of services in the Badlands region. Mr. Johnson knows of one committee, the Alternatives to Incarceration Committee, working on qualifications for professionals from other states that differ in from North Dakota's professional qualifications. Ms. Doe stated that the Human Services Interim Committee has several bills ready to present, which include money for mental health and addressing workforce issues for social workers, addiction counselors, therapists, etc.

Update on National Court Improvement Program

Capacity Building Centers

The Children's Bureau is changing the way state agencies, CIP's and tribes receive technical assistance. Previously, technical assistance was handled by a range of entities. Now, technical assistance is combined into three Capacity Building Centers with a specific audience for each center. All three centers will work with their specific audience and also coordinate to a high degree when interests overlap. Capacity building will have a strong evidence based emphasis. The Capacity Building Centers will not be providing direct technical assistance until after the beginning of 2015.

The three Capacity Building Centers are:

1. National Capacity Building Center – awarded to ICF International in Virginia
 - a. To serve state child welfare agencies
2. Child Welfare Capacity Building Center for Tribes – awarded to University of Denver Butler Institute for Families
 - a. To serve tribes
3. Center for Legal and Judicial Excellence in Child Welfare – awarded to ABA Fund for Justice and Education
 - a. To serve state Court Improvement Project grantees
 - b. Areas of work of this Center:
 - i. CIP online presence – a one-stop shop for CIP tools and resources
 - ii. Peer to peer learning and sharing opportunities
 - iii. Third round of the federal Children and Family Services Reviews – both general and state-specific resources
 - iv. Integrated state agency/state CIP/tribal work

- v. CIP-specific continuous quality improvement work and projects

Funding awards

All three CIP grants – basic, training and data - were renewed for FY2015. Currently, the funding awards are anticipatory. Between the three grants, the total award is approximately \$11,000 less than the FY 2014 total award. However, the Children's Bureau may reassess the funding awards based on need. The good news is the notice for FY 2015 funding awards were received six months earlier than the funding awards for FY 2014. We are still operating with FY 2014 funds and they can be obligated through September 2015.

Introduce New Education Member of CIP Committee

Judge Clapp introduced and welcomed Geraldine (Gerry) Teevins from the North Dakota Department of Public Instruction. Ms. Teevens is the education member of the CIP Committee.

Sub-Committee Reports:

GAL Sub-Committee – Shawn Peterson, Chair

Shawn Peterson reported that the GAL Sub-Committee met October 7, 2014. The sub-committee discussed the status of cost saving measures and critical duties of lay GAL's, ideas for future sub-committee tasks and the role of lay GALs in private guardianships filed in juvenile court.

Mr. Peterson asked the committee for direction in the role of lay GALs in guardianships filed in juvenile court. In some areas, private parties are filing for guardianship in juvenile court. Until Guardianship of J.S.L.F., 2013 ND 31, 826 N.W.2d 916, private guardianships were handled in District Court under the probate code. When a guardianship is sought alleging a parent is unfit, J.S.L.F. requires the guardianship petition be filed in juvenile court. The implication for lay GALs is the children must be found to be deprived and a GAL is required by statute. The sub-committee discussed whether a lay GAL or attorney GAL is appropriate. At the subcommittee meeting, Referee Grinsteiner felt there are advantages to appointing a lay GAL, rather than an attorney GAL, because of lay GAL expertise and training. The major concern discussed at the sub-committee meeting was that lay GALs may be required to perform additional duties than are required when a states attorney files a deprivation case.

Brad Swenson explained he is not convinced that a lay GAL is the appropriate person to appoint when there are parenting investigators who are more specifically trained to handle custody disputes. Mr. Swenson is also concerned that if a lay GAL is required to perform duties outside the scope of their regular deprivation cases, the lay GAL may not be protected from legal issues. Any additional expectations will have a budget impact, as well, with regard to additional time required and training.

Lanny Serrano reiterated that additional training will be required if lay GALs are required to conduct home studies and make recommendations. In deprivation cases filed by states attorneys, all the homing assessments are handled and investigated by social services.

There was discussion about the impact of private guardianship on indigent defense and lay GALs. The committee also discussed the statutory requirement for a GAL appointment, either attorney or lay, in deprivation and termination of parental rights cases filed in juvenile court. Dale Rivard reminded the committee that the lay GAL Program was developed in response to the inconsistent quality of representation by attorney GALs. Ms. Palsgraaf suggested that a parenting coordinator be appointed along with a lay GAL in private guardianships.

Mr. Johnson stated that this issue will be presented to the Juvenile Policy Board at the next meeting for discussion and direction.

ICWA Sub-Committee – Judge Todd Cresap & Connie Portscheller, Co-Chairs

Ms. Palsgraaf directed the committee to the draft of the ICWA findings and orders hardcard approved by the sub-committee. She asked for comments on the hardcard. It is designed to go to anyone who has input on ICWA findings and orders and should be as user friendly as possible.

Education Sub-Committee – Judge David Reich, Chair

Ms. Palsgraaf reported on training related to CIP.

CIP Peer to Peer Exchange on Model ICWA Judicial Curriculum

In August 2014, Lee Ann Barnhardt and Ms. Palsgraaf attended this meeting to review a final draft of a model ICWA curriculum for judges. After this meeting, the curriculum will be used to train a group of judges. Once the curriculum is finalized, it will be provided to the ICWA Sub-Committee and CIP Committee.

Increased sponsorship of 2015 ICWA Conference from training grant

Each year, \$10,000 is funded by the CIP training grant to help pay for speakers for the ICWA conference. The funds have been used to pay for travel and lodging for out of town speakers. The conference organizers asked Lee Ann Barnhardt, also a member of the ICWA conference organizing committee, if the amount can be increased for 2015. The 2015 CIP training grant budget designates \$12,500 in funding for the conference. Ms. Palsgraaf asked the committee if they will agree to increase the funding for the 2015 ICWA conference to \$12,500.

A motion was made by Dale Rivard to increase the budget from \$10,000 to \$12,500 for year 2015. The motion was seconded by Karen Kringlie, motion carried.

2015 ICWA Conference February 18-20 at Seven Seas in Mandan

The dates and location of the conference are February 18-20 at the Seven Seas Hotel in Mandan, ND.

The Red River Children's Advocacy Centers hold an annual conference in May 2015 at the Fargo Dome. Ms. Palsgraaf reported that the CIP training grant helps cover the cost of plenary speakers. The agenda will be sent once it is available.

The Children and Family Services Conference will be held in July 2015. More details will be provided as they become available.

Data Collection and Analysis Sub-Committee – Karen Kringlie, Chair

Ms. Kringlie reported that she submitted a request to the Odyssey user group for direction on correctly and accurately capturing deleted hearings data on the rescheduled/continued hearings report. A potential issue was identified by the sub-committee with deleted hearings data due to the ability of schedulers to right click to delete a hearing, rather than using the reset/continued hearings process in Odyssey. The user group decided that additional training should be provided to staff to determine if the practice can be eliminated. Ms. Kringlie is working on developing the training and anticipates it will be available for staff in approximately two weeks. Ms. Kringlie will run the report in 2015 to determine whether the training successfully eliminated the practice.

Judge Clapp asked if the training will be mandatory. Karen responded that she will ask the court administrators to send the training link out to staff.

Set 2015 meeting dates

February 20, 2015 from 1:00-3:00 p.m.

May 8, 2015 from 10 a.m.-12 p.m.

August 21, 2015 from 10 a.m.-12 p.m.

November 20, 2015 from 10 a.m.-12 p.m.